

operator, CCC may, during the marketing assistance loan period, approve the reconcentration in another authorized warehouse for all or part of a commodity that is pledged as collateral for a warehouse-stored loan. Any such approval shall be subject to the terms and conditions in the Reconcentration Agreement and Trust Receipt. A producer may, before the new warehouse receipt is delivered to CCC, pay CCC:

(1) The principal amount of the marketing assistance loan and charges plus interest and applicable charges; or

(2) If CCC so announces, an amount less than the principal amount of the marketing assistance loan and charges plus interest under the terms and conditions specified by CCC at the time the producer redeems the commodity pledged as collateral for such marketing assistance loan.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009]

§ 1421.109 Personal liability of the producer.

(a) When a producer obtains a commodity marketing assistance loan, the producer agrees, in writing, not to:

(1) Provide an incorrect certification of the quantity or make any fraudulent or erroneous representation for the marketing assistance loan; or

(2) Remove or dispose of a quantity of commodity that is collateral for a CCC farm-stored loan without prior written approval from CCC in accordance with § 1421.10.

(3) The violation of the terms and conditions of the note and security agreement, will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity that is not actually in existence or for a quantity on which the producer is not eligible. If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

(b) Such violations as referred to in paragraph (a)(3) of this section may include, but are not limited to:

- (1) Incorrect certification;
- (2) Unauthorized removal; and
- (3) Unauthorized disposition.

(c) If the county committee determines that the producer has committed such violations, liquidated damages shall be assessed on the quantity of the commodity that is involved in the violation.

(d) Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent of the marketing assistance loan rate applicable to the loan note.

(e) When it has been determined that a violation of the terms and conditions of the note and security agreement has occurred as a result of unauthorized removal or disposition, CCC will determine the quantity of the commodity involved with respect to such violation and require the repayment of that portion of the marketing assistance loan which is equivalent to such quantity of the commodity. In the case of these violations, if CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages shall be assessed according to paragraph (d) of this section and the commodity involved in the violation must be redeemed at the lesser of:

(i) The rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement; or

(ii) The alternative repayment rate in effect on the date of the determination is issued by CCC that a violation has occurred, plus 15 percent of the original loan rate as provided on the note and security agreement.

(2) Did not act in good faith when the violation was committed, liquidated damages shall be assessed in accordance with paragraph (d) of this section, and administrative actions shall be taken in accordance with paragraph (h) of this section. The loan must be redeemed at the rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement.

(f) When it has been determined that a violation of the terms and conditions of the note and security agreement has occurred as result of an incorrect certification, CCC will determine the quantity of the commodity involved

with respect to such violation and require the repayment of that portion of the marketing assistance loan which is equivalent to such quantity of the commodity. In the case of an incorrect certification, if CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages shall be assessed according to paragraph (d) of this section, and the commodity involved in the violation must be redeemed at the rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement.

(2) Did not act in good faith about the violation, liquidated damages shall be assessed in accordance with paragraph (d) of this section and administrative actions shall be taken in accordance with paragraph (h) of this section. The loan must be redeemed at the rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement.

(g) If the producer fails to pay such amount within 30 days from the date of notification of violations as provided in paragraphs (e)(1) and (f)(1) of this section, the producer must immediately repay the marketing assistance loan at the rate at which the loan was disbursed plus interest, and any other charges assessed under the note and security agreement.

(h) For violations subject to paragraphs (e)(2) and (f)(2) of this section, the producer must immediately repay the marketing assistance loan at the rate at which the loan was disbursed plus interest, and any other charges assessed under the note and security agreement. If the loan has already been repaid, any market gain previously realized on the loan, plus interest, must be refunded to CCC. CCC will demand delivery of any remaining loan collateral if not repaid within the 30 calendar day notification period.

(i) If the county committee determines that the producer has committed a violation, the county committee shall notify the producer in writing that:

(1) The producer has 30 calendar days to provide sufficient evidence and information regarding the circumstances

that caused the violation, to the county committee; and

(2) Administrative actions will be taken.

(j) If the loan is accelerated, the producer may not repay the loan at the alternative loan repayment rate and may not utilize commodity certificate exchanges, unless authorized by CCC.

(k) Producers denied or rejected for a farm-stored loan for any reason under this section may apply for a warehouse-stored loan.

(1) The loan plus other charges shall be payable to CCC upon demand if a producer:

(1) Makes any fraudulent representation in obtaining a marketing assistance loan, maintaining, or settling a loan; or

(2) Disposes or moves the loan collateral without the approval of CCC.

(m) A producer shall be personally liable for damages resulting from a commodity delivered to or removed by CCC containing mercurial compounds, toxin producing molds, or other substances poisonous or harmful to humans or animals or property.

(n) If the amount disbursed under a marketing assistance loan or in settlement thereof, exceeds the amount authorized by this part, the producer shall be liable for repayment of such excess and charges, plus interest.

(o) If the amount collected from the producer in satisfaction of the marketing assistance loan is less than the amount required under this part, the producer shall be personally liable for repayment of the amount of such deficiency and charges, plus interest.

(p) In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note.

(q) Any or all of the liquidated damages assessed under this section may be waived if the CCC determines that the violation occurred inadvertently, accidentally, or unintentionally.

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